

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARRELL NELSON,  
Petitioner,

Civil No. 2:15-cv-12371  
Hon. Sean F. Cox

v.

SHERRY BURT,  
Respondent.

**ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY [Dkt. 12]**

Petitioner filed a petition for writ of habeas corpus. On September 17, 2015, the Court issued an Opinion and Order summarily denying the petition as untimely, declining Petitioner a certificate of appealability, and granting leave to appeal in forma pauperis. Before the Court is Petitioner's motion for certificate of appealability, asserting again—as he did in his response to the show cause order—that the statute of limitations cannot be applied retroactively to his case. The Court will therefore construe Petitioner's motion as a motion for reconsideration.

Local Rule 7.1(h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001). The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof. A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

The issues raised in the motion were already ruled upon by the court in its opinion denying the petition, and Petitioner raises no new arguments that convince this Court to reach a different

decision on his request for a certificate of appealability. Accordingly, Petitioner's motion is **DENIED.**

S/Sean F. Cox  
Honorable Sean F. Cox  
United States District Judge

Dated: November 25, 2015

I hereby certify that a copy of the foregoing document was served upon Petitioner on November 25, 2015, by ordinary mail to:

Darrell Nelson #216285  
MUSKEGON CORRECTIONAL FACILITY  
2400 S. SHERIDAN  
MUSKEGON, MI 49442

S/Kelly Winslow for Jennifer McCoy  
Case Manager Generalist